

with an event recorder located elsewhere than the lead locomotive provided that such event recorder monitors and records the required data as though it were located in the lead locomotive.

(b) *Response to defective equipment.* A locomotive on which the event recorder has been taken out of service as provided in paragraph (c) of this section may remain as the lead locomotive only until the next calendar-day inspection. A locomotive with an inoperative event recorder is not deemed to be in improper condition, unsafe to operate, or a non-complying locomotive under §§ 229.7 and 229.9, and notwithstanding any other requirements in this chapter, inspection, maintenance, and testing of event recorders is limited to the requirements set forth in § 229.25(e).

(c) *Removal from service.* A railroad may remove an event recorder from service and, if a railroad knows that an event recorder is not monitoring or recording the data specified in § 229.5(g), shall remove the event recorder from service. When a railroad removes an event recorder from service, a qualified person shall cause to be recorded the date the device was removed from service on Form FRA F6180-49A, under the REMARKS section. An event recorder designed to allow the locomotive to assume the lead position only if the recorder is properly functioning is not required to have its removal from service noted on Form FRA F6180-49A.

(d) *Preserving accident data.* For the purposes of this section, the term "event recorder" includes all locomotive-mounted recording devices designed to record information concerning the functioning of a locomotive or train regardless of whether the device meets the definition of "event recorder" in § 229.5.

(1) *Accidents required to be reported to the Federal Railroad Administration.* If any locomotive equipped with an event recorder is involved in an accident that is required to be reported to FRA, the railroad using the locomotive shall, to the extent possible, and to the extent consistent with the safety of life and property, preserve the data recorded by the device for analysis by FRA. This preservation requirement permits the railroad to extract and analyze such data; *provided* the original or a first-order accurate copy of the data

shall be retained in secure custody and shall not be utilized for analysis or any other purpose except by direction of FRA or the National Transportation Safety Board. This preservation requirement shall expire 30 days after the date of the accident unless FRA or the Board notifies the railroad in writing that the data are desired for analysis.

(2) *Relationship to other laws.* Nothing in this section is intended to alter the legal authority of law enforcement officials investigating potential violation[s] of State criminal law[s] and nothing in this chapter is intended to alter in any way the priority of National Transportation Safety Board investigations under 49 U.S.C. 1131 and 1134, nor the authority of the Secretary of Transportation to investigate railroad accidents under 49 U.S.C. 5121, 5122, 20107, 20111, 20112, 20505, 20702, 20703, and 20902.

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Issued in Washington, D.C., on May 19, 1995.

Jolene M. Molitoris,
Administrator.

[FR Doc. 95-12963 Filed 5-25-95; 8:45 am]

BILLING CODE 4910-06-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 625

[Docket No. 950206038-5038-01; I.D. 051595E]

Summer Flounder Fishery; Adjustments to 1995 State Quotas

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notification of commercial quota adjustment.

SUMMARY: NMFS announces adjustments to the commercial quota for the 1995 summer flounder fishery. This action complies with regulations implementing the Fishery Management Plan for the Summer Flounder Fishery (FMP), which require that annual quota overages landed in any state be deducted from that state's quota for the following year. The public is advised that a quota adjustment has been made

and is informed of the revised state quotas. The Director, Northeast Region, NMFS (Regional Director), has also determined that there is no Federal summer flounder quota available for those coastal states that did not receive a portion of the annual commercial summer flounder quota. Vessels issued a Federal moratorium permit for the summer flounder fishery may not land summer flounder in these states.

EFFECTIVE DATE: May 22, 1995.

FOR FURTHER INFORMATION CONTACT:
Hannah Goodale, 508-281-9101.

SUPPLEMENTARY INFORMATION: Regulations implementing Amendment 2 to the FMP are found at 50 CFR part 625 (57 FR 57358, December 4, 1992). The regulations require annual specification of a commercial quota that is apportioned among the Atlantic coastal states from North Carolina through Maine. The process to set the annual commercial quota and the percent allocated to each state is described in § 625.20. The commercial summer flounder quota for the 1995 calendar year, adopted to ensure achievement of the appropriate fishing mortality rate of 0.53 for 1995, is set to equal 14,690,407 lb (6.7 million kg) (60 FR 8958, February 16, 1995).

Section 625.20(d)(2) provides that all landings for sale in a state shall be applied against that state's annual commercial quota. Any landings in excess of the state's quota will be deducted from that state's annual quota for the following year. Based on dealer reports and other available information, NMFS has determined that the States of Massachusetts and Rhode Island have exceeded their 1994 quota by 17,707 lb (8.8 kg) and 60,670 lb (27.4 kg), respectively. The remaining States of Maine, New Hampshire, Connecticut, New Jersey, New York, Delaware, Maryland, and North Carolina did not exceed their 1994 quotas. A complete summary of quota adjustments for 1995 is in Table 1.

The Commonwealth of Virginia collects landings data from the summer flounder fishery conducted in its waters, and the landings for the fourth quarter of 1994 have not yet been compiled. If those final figures result in landings in excess of the 1994 quota, a further adjustment will be required and a notification will be published in the **Federal Register**.

TABLE 1—ADJUSTED 1995 COMMERCIAL QUOTA FOR THE SUMMER FLOUNDER FISHERY

	1994 quota (lb)	1994 land- ings (lb)	1994 over- age (lb)	Initial 1995 quota (lb)	Adjusted 1995 quota	
					(lb)	(kg)
ME	7,463	4,857	.....	6,987	6,987	3,169
NH	74	.....	.....	67	67	30
MA	1,031,194	1,048,901	17,707	1,001,953	984,246	
					6,446	
RI	2,510,149	2,570,819	60,670	2,303,894	2,243,224	1,017,526
CT	384,247	370,413	.....	331,574	331,574	150,399
NY	1,423,943	1,270,012	.....	1,123,374	1,123,374	509,554
NJ	2,510,745	2,413,761	.....	2,456,969	2,456,969	1,114,462
DE	4,681	3,635	.....	2,614	2,614	1,186
MD	273,117	160,380	.....	299,551	299,551	135,874
VA	3,240,192	3,100,801	.....	3,131,519	3,131,519	1,420,433
NC	4,216,993	3,571,188	.....	4,031,905	4,031,905	1,828,841

This notification also announces the Regional Director's determination that no quota is available for those coastal states that did not receive a distribution from the annual commercial summer flounder quota. The Regional Director's determination triggers the summer flounder moratorium permit condition that owners of federally permitted vessel agree not to land summer flounder in any state that did not receive any part of the annual commercial summer flounder quota. The purpose of this condition is to aid in maintaining the integrity of the overall quota, which is set to achieve a specific mortality reduction goal, as state quotas are filled.

Historically, measurable landings of summer flounder have occurred only in

those coastal states from North Carolina northward to Maine. These are the states that have received distributions from the annual commercial summer flounder quota. Recent reports, however, indicate that harvesters intend to land summer flounder in other states, such as South Carolina, in response to the closures of Virginia and North Carolina to landings of summer flounder. States other than those specified in Table 1 do not have any available summer flounder quota because they did not receive a share of the annual commercial quota. Therefore, vessels with a Federal summer flounder moratorium permit may not land summer flounder in these states.

This notification serves to trigger the permit condition that prevents vessels

that are issued a Federal summer flounder moratorium permit from landing summer flounder in any state that has no commercial summer flounder quota.

Classification

This action is required by 50 CFR part 625 and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: May 22, 1995.

Richard H. Schaefer,

Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 95-12935 Filed 5-22-95; 4:58 pm]

BILLING CODE 3510-22-W